

SENATE RECORD VOTE ANALYSIS

105th Congress
1st Session

Vote No. 32

March 19, 1997, 11:37 am
Page S-2499 Temp. Record

INDEPENDENT COUNSEL ON CLINTON CAMPAIGN/Passage

SUBJECT: A resolution expressing the sense of the Congress that an independent counsel should be appointed to investigate illegal fundraising in the 1996 presidential campaign . . . S.J. Res. 22. Passage.

ACTION: JOINT RESOLUTION PASSED, 55-44

SYNOPSIS: As introduced, S.J. Res. 22 will express the sense of the Congress that the Attorney General should apply for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 presidential election. The independent counsel law allows the Attorney General to apply for the appointment of an independent counsel when there is specific and credible information that there may have been violations of Federal criminal law (other than a class B or C misdemeanor or infraction) and the investigation of such violations by the Department of Justice may result in a political conflict of interest. The law requires an Attorney General to conduct a preliminary investigation if she receives specific and credible information that a felony or major misdemeanor has been committed by the President, Vice President, or certain high-level executive branch, political party, or election committee officials, and to apply for the appointment of an independent counsel based on that investigation, if warranted. The resolution notes that according to reports in the media:

- there is specific, credible evidence that officers and agents of the Democratic National Committee and the President's reelection campaign may have violated Federal criminal laws governing political fundraising activities in connection with the 1996 Presidential election campaign;
- the Attorney General has found such allegations of sufficient gravity that she has created a task force within the Justice Department and convened a grand jury to further investigate them;
- there is specific, credible evidence that senior White House officials took an active role in and supervised the activities of the President's reelection campaign and the Democratic National Committee in connection with the 1996 presidential campaign; and
- there is specific, credible evidence that the decision-making structure and implementation of fundraising activities carried out by the Democratic National Committee and the President's reelection campaign were supervised by White House officials, including the President and Vice President.

(See other side)

YEAS (55)		NAYS (44)		NOT VOTING (0)	
Republicans (55 or 100%)	Democrats (0 or 0%)	Republicans (0 or 0%)	Democrats (44 or 100%)	Republicans (0)	Democrats (0)
Abraham	Hutchinson	Akaka	Johnson		
Allard	Hutchison	Baucus	Kennedy		
Ashcroft	Inhofe	Biden	Kerrey		
Bennett	Jeffords	Bingaman	Kerry		
Bond	Kempthorne	Boxer	Kohl		
Brownback	Kyl	Breaux	Landrieu		
Burns	Lott	Bryan	Lautenberg		
Campbell	Lugar	Bumpers	Leahy		
Chafee	Mack	Byrd	Levin		
Coats	McCain	Cleland	Lieberman		
Cochran	McConnell	Conrad	Mikulski		
Collins	Murkowski	Daschle	Moseley-Braun		
Coverdell	Nickles	Dorgan	Moynihan		
Craig	Roberts	Durbin	Murray		
D'Amato	Roth	Feingold	Reed		
DeWine	Santorum	Feinstein	Reid		
Domenici	Sessions	Ford	Robb		
Enzi	Shelby	Glenn	Rockefeller		
Faircloth	Smith, Gordon	Graham	Sarbanes		
Frist	Smith, Bob	Harkin	Torricelli		
Gorton	Snowe	Hollings	Wellstone		
Gramm	Specter	Inouye	Wyden		
Grams	Stevens				
Grassley	Thomas				
Gregg	Thompson				
Hagel	Thurmond				
Hatch	Warner				
Helms					

VOTING PRESENT(1)
Dodd

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Those favoring the resolution contended:

The past several months have seen a steady stream of allegations concerning legal and ethical breaches by the Clinton Administration and the Democratic Party in President Clinton's 1996 reelection campaign. There are countless complex elements to this scandal, but only one central question: was the executive branch of Government corrupted and compromised by a rogue political election operation centered in the Democratic National Committee, the Office of the President, the Office of the Vice President, and the Office of the First Lady? By definition, such an operation would not just be a violation of legal and ethical standards regarding campaign financing, but arguably a crime against democracy itself. The power and resources of the Federal Government, which belong to and exist to serve the interests of the American people, must not be misused for personal gain, and especially must not be used to corrupt the electoral process for personal political gain. If these allegations stand unexamined our democracy will be weakened. The full truth must come out and, if necessary, appropriate legal actions must be taken. Failing to act will leave Americans very doubtful of the integrity of the highest elected officials and officers of the country.

In order to best ensure that the full truth comes out, this resolution urges the appointment of an independent counsel. All Senators understand the rationale behind the independent counsel law. The President is Chief Executive Officer, and thus has direct authority over the Attorney General and all other law enforcement officers who may be involved in investigations concerning him or other high-level executive branch officials. The conflict of interest is undeniable. Even if an investigation is conducted with the utmost probity questions will automatically be raised in people's minds if it is conducted by allies of the President. It is just not reasonable in any investigation of alleged wrongdoing by any person to have the suspect's friends in charge of the investigation.

The law sets forth specific steps that must be taken by the Attorney General when specific and credible evidence of illegalities surface concerning the President, Vice President, and certain high level officials. The first, basic legal requirement is that the Attorney General must officially conduct a preliminary investigation. Attorney General Reno, for reasons unknown, has so far refused to take that legally required step. The allegations that have been made (some of which are detailed below) have been accumulating for months, they have been becoming increasingly serious, and they directly involve the President, Vice President, and numerous high ranking executive branch officials. She has reportedly been conducting an investigation for the past 3 months, and has convened a grand jury, but she has yet to begin a formal preliminary investigation. The law foresees this possibility. When an Attorney General fails to act, the law states that the Members of the Judiciary Committee, or just the minority members of the Committee, may formally request the Attorney General to take action and the Attorney General must respond within 90 days. The purpose of allowing minority Members to demand a response is to make sure that the majority party in Congress, if the same as the President's party, will not be able to participate in a cover-up. The Attorney General should have to give a justification for not conducting an investigation.

The Republicans on the Judiciary Committee have recently sent a letter to the Attorney General to which she now must respond. Democratic committee members, unfortunately, would not join in the request for an appointment of an independent counsel. Instead, they sent a letter stating that she should use her own judgment, but if she does appoint a counsel it should be to investigate Republicans as well as Democrats. That letter is disturbingly partisan. Allegations of wrongdoing by Republicans have not been under investigation for months, and our colleagues do not make any specific allegations. Broadening the investigation in this manner, based not on evidence but on the wish of Democrats to avoid embarrassment, would be an inappropriate and even illegal use of the independent counsel law. Even if there were credible evidence of electoral wrongdoing by Republican Members of Congress, what conflict of interest do our colleagues claim exists between the Democratic Attorney General and Republican Members? Our colleagues are not calling for an investigation of Congress as well because they think that there is evidence that Members broke the law; they are calling for it to divert attention from the Clinton campaign.

Our Democratic colleagues' partisanship, and the Attorney General's intransigence, have forced us into offering this resolution. We cannot allow this matter to be swept under the rug. Congress frequently passes sense of the Congress resolutions to put its views on record and to call public attention to matters, and few matters are as important as the integrity of our government and elections. This resolution will add to the chorus of voices around the country, both liberal and conservative, and the individual voices in Congress, including from Democrats, that have called for the appointment of an independent counsel. We did not want to be forced into this situation; the independent counsel law should not create partisan divisions. Unfortunately, it has created such divisions in the past, and in this case we think that the division has been caused by an unwillingness on the part of the Democrats to follow the letter of the law. Many of us think that it would be better if we followed the old practice of just having the Attorney General appoint an independent investigator without going through this formal, frequently politicized process, but that is not an option. The law is on the books, and it must be followed.

There are literally dozens of confirmed facts and allegations that provide ample prima facie evidence that public resources and public policies were sold to further President Clinton's reelection effort. We detailed some of those facts and allegations last week when we considered the Senate investigation resolution (see vote No. 29). Those allegations involve the apparent selling of access and policy to foreign governments and others, an attempt to politicize intelligence services, a scheme to break naturalization laws in order to inflate voter rolls for the benefit of Democrats in key electoral States, and now even an open dispute between the Federal Bureau of Investigation (FBI) and the White House on whether the FBI fully informed the White House on a Chinese effort to subvert

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the electoral process by making illegal contributions to the President and others. The investigations that have been pursued, mostly by very liberal media outlets, continue to turn up new disturbing evidence of illegal actions. A short list of laws that may have been violated include title 18, sections 201 (on bribing officials), 205 (on a Government employee representing anyone before a Federal agency on a matter in which the United States has an interest), 219 (on a Federal official acting as a foreign agent by delivering money from foreign countries); 599 (on promising Federal office or employment in return for political support), 600 (on promising employment, a contract, or other Federal benefit in return for political support), 607 (on soliciting campaign funds on Federal property), 611-621 (on acting on behalf of foreign governments or political parties without registering with the Attorney General), 641 (on converting government property to personal use), 793 (on communicating national defense information to people not entitled to receive it), 1905 (on a Federal official making an unauthorized disclosure of proprietary business information), and 1956 (on money laundering).

We have long passed the point when an independent counsel should have been appointed to investigate fundraising by the Clinton campaign in the 1996 presidential election. Our Democratic colleagues should not allow their party loyalty to stop them from defending the integrity of the electoral process in America. They should join us in passing this resolution.

Those opposing the resolution contended:

Our Republican colleagues are not being very nice in proposing this resolution. The President just had painful surgery for a torn tendon and is still in the hospital recuperating. If Senators believe that a President has engaged in illegal or improper activities, they have a duty to say so, but they should also always act with decorum and the understanding that any President has feelings. Republicans have been so harsh and so unrelenting in their criticism of this President that they appear to have no respect for the office of the presidency. Their behavior is unseemly; we are somewhat surprised they have not called for a delegation to go to the hospital to make sure he is telling the truth about his operation. Another reason the timing of this resolution is poor is that the President is about to go and meet with Russia's President. Traditionally, when Presidents have gone abroad, whether Republican or Democrat, Senators have muted their partisan criticism. As a matter of common sense, America's negotiating position is always enhanced if America appears united. We can have our differences domestically, but when we negotiate with foreigners we should be Americans, not Democrats or Republicans. By offering this resolution our colleagues have ignored this long-standing principle.

Even if the timing were not so poor and mean-spirited this resolution would be objectionable. The independent counsel law should not be politicized by pressuring the Attorney General. Under the law, it is up to the Attorney General to decide if the appointment of an independent counsel should be requested. The law does not state that Congress should put in its political two cents by passing sense-of-the-Congress statements urging one-sided investigations. In this case, our Republican colleagues have only been concerned with talking about the possibility of illegalities committed by the Clinton Administration and campaign. They have not said a word about the serious improprieties that have been allegedly committed by Republican Members and Republican campaigns. We may well eventually need criminal investigations, but when those investigations come they are going to have to be of the President and of Congress. The public will not be satisfied with an investigation just of the President, no matter how impartial. The independent counsel law allows investigations of Members when in the public interest, and clearly, if an investigation occurs of the President, it will be in the public interest to broaden it to include Congress in order to appear fair.

Congress should be considering important issues like the budget or campaign finance reform. It should not be wasting its time on partisan insults like this resolution. This resolution should be rejected.